IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.RAMACHANDRAN
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 7TH DECEMBER 2006 / 16TH AGRAHAYANA 1928

FAO.No. 288 of 2006()

AGAINST THE ORDER DATED 30/09/2006 IN IA.NO.1053/2006 IN OS.92/2006 of PRINCIPAL SUB COURT,KOCHI

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: APPELLANT/1ST RESPONDENT:

SUBHASH, AGED 46 YEARS,
S/O.LATE VELAYUDHAN, MANALIL HOUSE,
OACHANTHURUTH DESOM, PUTHUVYPU P.O.,
ELAMKUNNAPUZHA VILLAGE, KOCHI TALUK.

BY ADV. SRI.BIJU M.JOHN

RESPONDENTS:

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1. JOSE P. THOMAS, AGED 42 YEARS,
S/O.LATE K.P. THOMAS, RESIDING AT `AMRITA',
KOROTH HOUSE, VYTTILA P.O., PIN-682 019,
POONITHURA VILLAGE, KANAYANNUR TALUK,
ERNAKULAM DISTRICT.

2. BABU, AGED 44 YEARS,
S/O.LATE VELAYUDHAN, MANALIL HOUSE,
OACHANTHURUTH DESOM, PUTHUVYPU P.O.,
ELAMKUNNAPUZHA VILLAGE, KOCHI TALUK.

THIS FIRST APPEAL FROM ORDERS HAVING COME UP FOR ADMISSION ON 07/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M. RAMACHANDRAN & A.K. BASHEER, JJ.

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F.A.O.NO.288 OF 2006

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DATED THIS THE 7TH DAY OF DECEMBER, 2006.

JUDGMENT

Ramachandran, J.

In a suit filed for specific performance at the instance of the plaintiff, an order had been passed by the Principal Sub Judge, Kochi on 30.9.2006, whereby certain amount of restrictions have been imposed on the defendants and they are disabled from alienating the properties or committing waste thereon. This order passed in I.A.No.1053/2006 in O.S.No.92/2006 is under challenge.

2. We have heard Shri Biju M. John, learned counsel appearing for the appellant. On the facts of the case as of now, there is no justification for interfering with the orders since, a dispassionate view is seen taken by the court below so as to preserve the interest of the plaintiff. Of course, the suit is yet to be finally decided and learned counsel for the appellant submits that the findings already recorded may adversely affect the trial of the suit.

3. We make it clear that the observations as of now made in the order should not unduly interfere with the final adjudication. The suit is exp[ected to be decided untrammelled by any findings already entered into for the purpose of

interlocutory orders.

With the above observations, the appeal is dismissed. The appellant should serve a copy of this judgment on the respondents forthwith.

(M.Ramachandran, Judge.)

(A.K. Basheer, Judge.)

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